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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR Part 544

#### Docket No. NHTSA–2013–0024

#### Insurer Reporting Requirements

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Final Rule.

**SUMMARY:** This final rule repeals NHTSA’s regulation requiring motor vehicle insurers to submit information on the number of thefts and recoveries of insured vehicles and actions taken by the insurer to deter or reduce motor vehicle theft. NHTSA is repealing this regulation because the agency’s only available statutory authority to require insurers to submit this information was removed by the Motor Vehicle and Highway Safety Improvement Act of 2012 (Mariah’s Act) (incorporated into the Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP-21)). Given that NHTSA no longer has the authority to require insurers to submit this information and thus has no discretion to take any action other than rescinding the regulation, the agency did not issue a notice of proposed rulemaking (NPRM) prior to this final rule. Under those circumstances, public comment to the rulemaking is unnecessary.

The repeal of the authority to maintain and enforce the insurer reporting requirements reduced the paperwork burden on the public by 13,375 hours and reduced the cost to the government in collecting the information by \$64,000.

**DATES:** *Effective date:* This final rule is effective [Insert date of publication in the Federal Register].

*Petitions for reconsideration:* Petitions for reconsideration of this final rule must be received not later than **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Any petitions for reconsideration should refer to the docket number of this document and be submitted to: Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE, West Building, Ground Floor, Docket Room W12-140, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Carlita Ballard, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, 1200 New Jersey Avenue, S.E., Washington, DC 20590, by electronic mail to [Carlita.Ballard@dot.gov](mailto:Carlita.Ballard@dot.gov). Ms. Ballard's telephone number is (202) 366-5222. Her fax number is (202) 493-2990.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Pursuant to 49 U.S.C. 33112, *Insurer Reports and Information*, NHTSA issued a regulation requiring certain passenger motor vehicle insurers to file an annual report with the agency. Each insurer is required to report information about thefts and recoveries of motor vehicles, the rating rules used by the insurer to establish premiums for comprehensive coverage, the actions taken by the insurer to reduce such premiums, and the actions taken by the insurer to reduce or deter theft. This statute also gives NHTSA the discretion to exempt small insurers from the reporting requirements if the agency finds that such an exemption will not significantly affect the validity or usefulness of the information in the reports, either nationally or on a state-by-state basis.

In order to carry out 49 U.S.C. 33112, NHTSA promulgated 49 CFR Part 544, *Insurer Reporting Requirements*, which requires insurers to submit information about the make, model, and year of all vehicle thefts, the make, model, and year of all vehicle recoveries, whether the vehicle was recovered in whole or in part, the dollar amount of the insurer's claims paid out due to theft, the rating rules used by the insurer to establish premiums for comprehensive coverage, the actions taken by the insurer to reduce such premiums, and the actions taken by the insurer to reduce or deter theft. The following insurers are subject to the reporting requirements:

- (1) issuers of motor vehicle insurance policies whose total premiums account for 1 percent or more of the total premiums of motor vehicle insurance issued within the United States;
- (2) issuers of motor vehicle insurance policies whose premiums account for 10 percent or more of total premiums written within any one state; and
- (3) rental and leasing companies with a fleet of 20 or more vehicles not covered by theft insurance policies issued by insurers of motor vehicles, other than any governmental entity.

This final rule repeals Part 544 because 49 U.S.C. 33112, which gives the agency the authority to require insurers to submit information about motor vehicle thefts, was repealed by Mariah's Act.<sup>1</sup> Apart from 49 U.S.C. 33112, the agency does not have any statutory authority on which it could rely to require insurers to submit the information required under Part 544.

NHTSA has the authority under 49 U.S.C. 32303, *Insurance Information*, to require insurers to submit accident claim information about physical damage, repair costs, and personal injury but that statute does not provide the agency with the authority to collect information from insurers about motor vehicle thefts. Furthermore, 49 U.S.C. 33102, *Theft Prevention Standard for High*

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<sup>1</sup> Public Law 112-141.

*Theft Lines*, states that NHTSA's general authority to issue theft prevention standards does not authorize the agency to require any person to keep records or make reports related to motor vehicle thefts unless the agency has express statutory authority to do so. NHTSA has statutory authority to issue motor vehicle safety standards, recall defective and noncompliant vehicles, ensure that imported vehicles comply with Federal motor vehicle safety standards, issue bumper standards, prevent odometer fraud, issue fuel economy standards and issue theft prevention standards. None of the statutory provisions that authorize those activities give NHTSA the authority to continue to require insurers to submit information about motor vehicle thefts. Because the statute authorizing NHTSA to require insurers to report information about motor vehicle thefts has been repealed and the agency does not have any other basis to require insurers to submit this information, we are issuing this final rule to repeal Part 544.

The effective date of this final rule is the date of publication. However, Part 544 ceased to be enforceable on October 1, 2012, the effective date of the provision in Mariah's Act removing the agency's authority to require insurers to submit this information.

## **II. Public Comment**

NHTSA did not issue an NPRM prior to this final rule. While the Administrative Procedure Act requires that agencies publish a general NPRM in the Federal Register prior to issuing a final rule, an agency is not required to publish an NPRM if the agency is able to make and makes a good cause finding that notice and public comment is "impracticable, unnecessary, or contrary to the public interest."<sup>2</sup> Because NHTSA no longer has the authority to require insurers to submit information on thefts under Part 544, we cannot enforce those provisions and must repeal them. Given that the agency has no discretion as to the outcome of this rulemaking, public comment on it is unnecessary.

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<sup>2</sup> 5 U.S.C. 553.

### **III. Regulatory Notices and Analyses**

#### **A. Executive Order 12866, Executive Order 13563, and DOT Regulatory Policies and Procedures**

NHTSA has considered the impact of this rulemaking action under Executive Order 12866, Executive Order 13563, and the DOT's regulatory policies and procedures. This final rule was not reviewed by the Office of Management and Budget (OMB) under E.O. 12866, "Regulatory Planning and Review." It is not considered to be significant under E.O. 12866 or the Department's regulatory policies and procedures.

This final rule repeals regulations requiring motor vehicle insurers to submit certain information about vehicle thefts. The repeal of the authority to maintain and enforce the insurer reporting requirements reduced the paperwork burden on the public by 13,375 hours and reduces the cost to the government in collecting the information by \$64,000. Because there are not any costs or savings associated with this rulemaking, we have not prepared a separate economic analysis for this rulemaking.

#### **B. Regulatory Flexibility Act**

In compliance with the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., NHTSA has evaluated the effects of this action on small entities. I hereby certify that this rule would not have a significant impact on a substantial number of small entities. The final rule would affect motor vehicle insurers, but the entities that qualify as small businesses would not be significantly affected by this rulemaking because the agency is repealing existing requirements that these entities submit information on motor vehicle thefts to the agency.

#### **C. Executive Order 13132**

NHTSA has examined today's rule pursuant to Executive Order 13132 (64 FR 43255, August 10, 1999) and concluded that no additional consultation with States, local governments or their representatives is mandated beyond the rulemaking process. The agency has concluded that the rulemaking would not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The final rule would not have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Because this final rule is repealing existing requirements, this final rule will not preempt any state law.

#### **D. National Environmental Policy Act**

NHTSA has analyzed this final rule for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action will not have any significant impact on the quality of the human environment.

#### **E. Paperwork Reduction Act**

Under the procedures established by the Paperwork Reduction Act of 1995, a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. The repeal of the authority to maintain and enforce the insurer reporting requirements reduced the paperwork burden on the public by 13,375 hours and reduced the cost to the government in collecting the information by \$64,000.

#### **F. National Technology Transfer and Advancement Act**

Under the National Technology Transfer and Advancement Act of 1995 (NTTAA) (Public Law 104-113), "all Federal agencies and departments shall use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical

standards as a means to carry out policy objectives or activities determined by the agencies and departments.” This Final Rule does not adopt any voluntary consensus standards because this rulemaking repeals existing requirements.

### **G. Civil Justice Reform**

With respect to the review of the promulgation of a new regulation, section 3(b) of Executive Order 12988, “Civil Justice Reform” (61 FR 4729, February 7, 1996) requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) clearly specifies the preemptive effect; (2) clearly specifies the effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct, while promoting simplification and burden reduction; (4) clearly specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. This document is consistent with that requirement.

Pursuant to this Order, NHTSA notes as follows. The preemptive effect of this final rule is discussed above. NHTSA notes further that there is no requirement that individuals submit a petition for reconsideration or pursue other administrative proceeding before they may file suit in court.

### **H. Unfunded Mandates Reform Act**

The Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually (adjusted for inflation

with base year of 1995). This final rule would not result in expenditures by State, local or tribal governments, in the aggregate, or by the private sector in excess of \$100 million annually.

### **I. Executive Order 13211**

Executive Order 13211 (66 FR 28355, May 18, 2001) applies to any rulemaking that: (1) is determined to be economically significant as defined under E.O. 12866, and is likely to have a significantly adverse effect on the supply of, distribution of, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. This rulemaking is not subject to E.O. 13211.

### **J. Regulation Identifier Number (RIN)**

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

### **List of Subjects in 49 CFR Part 544**

Imports, Motor vehicle safety, Motor vehicles, Tires, Reporting and recordkeeping requirements.

In consideration of the foregoing, under the authority of Sec. 31313, Pub. L. 112-141, NHTSA amends 49 CFR Chapter V as set forth below:

### **PART 544 -- [REMOVED AND RESERVED]**

1. Part 544 is removed and reserved.



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David L. Strickland  
Administrator

Billing Code: 4910-59-P

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